

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

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GARY J. WILEY and LINDA P. WILEY,

Plaintiffs,

v.

WILLIAM J. BYRD,

Defendant.

03:05-CV-00507-LRH-VPC

ORDER

On October 11, 2005, defendant William Byrd filed a motion to dismiss in the above titled action. In Mr. Byrd's motion, matters outside the pleadings have been presented to the court. When "matters outside the pleadings are presented to and not excluded by the court, the motion shall be treated as one for summary judgment and disposed of as provided in Rule 56, and all parties shall be give reasonable opportunity to present all material made pertinent to such a motion by Rule 56." Fed. R. Civ. P. 12(b)(6). In the present action, the court may consider Mr. Byrd's exhibits and convert the motion to one for summary judgment. Therefore, this order will serve as notice to the parties of the court's intention and to give the parties an opportunity to supplement the record. *San Pedro Hotel Col, Inc. v. City of Los Angeles*, 159 F.3d 470 (9th Cir. 1998).

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1 IT IS THEREFORE ORDERED that the parties shall have thirty (30) days from the entry of
2 this order in which to supplement the record.

3 IT IS SO ORDERED.

4 DATED this 23rd day of May, 2006.

A handwritten signature in blue ink, appearing to read "L. Hicks", is positioned above the printed name of the judge.

7 LARRY R. HICKS
8 UNITED STATES DISTRICT JUDGE
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